

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7234 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HAJARABEN ADAM GIRNARI

Versus

STATE OF GUJARAT

Appearance:

MR KETAN A DAVE for Petitioners

MR SURESH M SHAH for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 07/10/97

ORAL JUDGEMENT

Rule. Mr. S.M.Shah, the learned Counsel for the appearing for the respondent No.4 waives service of the rule. Mr. S.N. Divetia, Assistant Government Pleader appearing for the respondents Nos. 1, 2 and 3 waives service of rule. Heard both the sides and the matter is being disposed of finally at their instance.

The grievance of the petitioners is that while

the petitioners' appeal under Section 38(4) of the Gujarat Municipalities Act, 1963 is pending, the appellate authority by the impugned order dated 12.9.97 at Annexure "D" to the petition, has rejected the application for interim relief of the petitioners, as a result of which the seats of the petitioners will be filled-up rendering the appeal to be infructuous.

In view of the consequences which follow an order under Section 37(1) of the Act, it would be appropriate for the appellate authority to immediately decide the appeal. It is therefore directed that the appellate authority will hear and decide the appeal of the petitioners on or before 24th October, 1997. The further operation of the order of the Collector dated 4.9.97 is stayed until disposal of the said appeal, on a clear understanding that the petitioners will not function as Councillors during the said period.

If the appellate order goes against the petitioners, its operation will stand suspended for one week after it is served on the petitioners, to enable the petitioners to take recourse to law.

None of the observations made in this order or the interim arrangement made, will in any way, prejudice either party. Rule is made absolute accordingly with no order as to costs.
